

Application No. 10/612,517

Page 6

RECEIVED
CENTRAL FAX CENTER
JUL 19 2006

b. Remarks

Claims 1-20, as amended, are pending in the application. In response to the first Restriction/Election Requirement dated January 10, 2006, Applicant elected Claims 1-15 with traverse. Claims 2-15 have been amended as a matter of form. Nonelected Claims 16-20 have been withdrawn from consideration. In response to the second Restriction/Election Requirement dated April 19, 2006, Applicant elects Claims 1, 3, 4, and 7-15, also with traverse (see below).

1. Election/Restriction Requirement

In response to the first Restriction/Election Requirement dated January 10, 2006, Applicant elected Claims 1-15 with traverse. The remaining, nonelected (process) claims, 16-20, have been withdrawn from consideration and are being held in abeyance.

In the second Restriction/Election Requirement interposed by the Examiner on April 19, 2006, Claims 1-15 are subject to another restriction requirement. (It seems unusual to have two restriction/election requirements in two separate Office actions several months apart.) In response, Applicant elects with traverse to prosecute the claimed invention of the following "species": grape seed oil. According to the action, Claim 1 is generic. The following are considered readable on the elected species: Claims 1, 3, 4, and 7-15. The remaining species /claims are held in abeyance until final disposition of the elected species/ claims.

The election is made with traverse, which reserves a right to petition. Applicant respectfully traverses this restriction requirement on the grounds that examination of the cited "species", jojoba oil, grape seed oil, tea tree oil, and almond oil, would not impose a serious burden on the Examiner. According to MPEP §§803 and 808.01(a), there must be a serious burden on the Examiner if restriction is required. It is believed that the

Application No. 10/612,517

Page 7

amount of searching for these four oils would not be appreciably more than the search required for only one of the four oils. According to MPEP §803, if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even if the claims are considered to describe independent or distinct inventions.

According to the Office action, Applicant will be entitled to consideration of claims to additional species that depend from or otherwise require all the limitations of an allowable generic claim upon the allowance of a generic claim, as provided by 37 CFR 1.141. Claim 1 is generic.

2. Preliminary Amendment

Claims 2-15 have been amended as a matter of form. In each amendment, the word "The" has been substituted for the article "A" at the start of each claim. Also, amended Claim 11 depends on Claim 4.

No new matter has been added to the application. Applicant requests that this amendment be made of record in the case and considered by the United States Patent and Trademark Office Examiner, and that the claims be allowed.

Respectfully submitted,

The Harleston Law Firm, LLC

By: Kathleen M. Harleston

Kathleen M. Harleston
Attorney for Applicant
Registration No. 33,398

Date: July 19, 2006

Application No. 10/612,517

Page 8

909 Tall Pine Road
Mt. Pleasant, SC 29464
(843)971-9453 Phone
(843)971-9505 Fax
kathleen@harlestonlawfirm.com

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the US Patent & Trademark Office, Fax No. 571-273-8300, on July 19, 2006.

Typed name of person signing this certificate: Kathleen M. Harleston

Signature: Kathleen M. Harleston